

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Larry D. Armacost,
Petitioner

v.

Case No. 1:11-cv-157

Warden, Lebanon Correctional
Institution,
Respondent

ORDER

This matter is before the Court on the Magistrate Judge's Report and Recommendation filed January 26, 2012 (Doc. 15).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). As of the date of this Order, no objections to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636, we find the Magistrate Judge's Report and Recommendation correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. Petitioner's petition for writ of habeas corpus is **DISMISSED** with prejudice. Respondent's motion to dismiss is **GRANTED**.

A certificate of appealability will not issue with respect to petitioner's sole claim for relief, which this Court has concluded is barred from review on a procedural ground, because under the first prong of the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), "jurists of reason

would not find it debatable as to whether this Court is correct in its procedural rulings.”

This Court certifies that pursuant to 28 U.S.C. § 1915(a)(3) an appeal of this Order would not be taken in good faith, and therefore DENIES petitioner leave to appeal *in forma pauperis*. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

Date: February 28, 2012

s/Sandra S. Beckwith
Sandra S. Beckwith, Senior Judge
United States District Court